

ORDINANCE
NOTICING AND POSTING REQUIREMENTS

RESOLUTION NO. PC 19-21

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF ORANGE RECOMMENDING THAT THE
CITY COUNCIL ADOPT AN ORDINANCE AMENDING
TITLE 17 OF THE ORANGE MUNICIPAL CODE (ZONING)
TO UPDATE NOTICING AND POSTING REQUIREMENTS**

APPLICANT: CITY OF ORANGE

Moved by Commissioner _____ and seconded by Commissioner _____
that the following Resolution be adopted:

WHEREAS, Orange Municipal Code (OMC) Chapter 17.08, General Administrative Procedures, establishes notification requirements for various types of project entitlement processes; and

WHEREAS, the proposed Ordinance will modify OMC Chapters 17.08, and 17.10 to clarify and establish new procedural and posting requirements for public notification in the City; and

WHEREAS, the proposed Ordinance revising provisions of the OMC related to noticing and posting requirements is consistent with the goals and policies of the General Plan Land Use Element; and

WHEREAS, the Planning Commission considered the proposed revisions to the OMC at a duly advertised public hearing held on July 19, 2021, at which time interested persons had an opportunity to testify either in support of or in opposition to the proposed Ordinance, and recommends approval thereof.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the City Council adopt the subject Zoning Ordinance No. XX-21, shown as Attachment 1, attached hereto, based on the following findings:

SECTION 1- FINDINGS

The Planning Commission finds that the subject Ordinance amending Chapters 17.08, and 17.10 to establish procedural requirements for noticing and posting requirements of the OMC is justified in order to ensure that the City is providing property owners and residents with the opportunity to comment on proposed projects that may affect their properties in a public meeting prior to the final determination.

The Planning Commission also finds that the subject Ordinance supports the goals of the City's General Plan. Specifically, the Ordinance implements Land Use Element Goal 8.0, which states that the City will encourage active involvement of residents, businesses, and agencies in the planning and decision making process. Policy 8.1, which encourages providing opportunities for

public participation in land use planning decisions through public hearings; and Implementation Program IV-3 – Public Education Programs, which calls for improving citizen participation in land use planning processes.

SECTION 2-ENVIRONMENTAL REVIEW

- The proposed Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15060(c)(2) and 15060(c)(3), because the Ordinance simply provides procedural noticing and posting requirements. The proposed Ordinance does not cause changes to the residential density established in the General Plan. It does not involve a specific site or development project, and does not otherwise result in a physical change that could cause an impact to the environment. Adoption of the Ordinance is therefore not a "project" as defined in CEQA Guideline 15378.
- The proposed Ordinance is exempt from CEQA per CEQA Guideline 15061(b)(3) because it can be seen with certainty, after review and evaluation of the facts regarding the Ordinance and its application, that there is substantial evidence that adoption of the Ordinance would not have a significant effect on the environment and the common sense exemption applies.
- In the unlikely event adoption of the Ordinance would constitute a project under CEQA, it is categorically exempt from the provisions of CEQA per CEQA Guideline 15321(a) (Class 21, Enforcement Actions by Regulatory Agencies) because said adoption is an action taken by the City as a regulatory agency and involves "enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency."

I hereby certify that the Planning Commission of the City of Orange adopts the foregoing Resolution on July 19, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Dave Simpson, Planning Commission Chair

Date

ORDINANCE NO. XX-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING TITLE 17 OF THE ORANGE MUNICIPAL CODE (ZONING CODE) TO ADD UPDATE NOTICING AND POSTING REQUIREMENTS.

WHEREAS, the City Council of the City of Orange, pursuant to its police powers afforded under the California Constitution, Article XI and California Government Code Section 37100, et seq., may adopt regulations to protect the health, safety and welfare of the community, including establishing parking standards for various uses; and

WHEREAS, the current noticing and posting requirements for residential and commercial land use entitlement applications in the City, are contained in Orange Municipal Code (OMC) Chapter 17.08; and

WHEREAS, in furtherance of better informing residents and property owners about pending applications at nearby properties, City staff has recommended revising the noticing procedures for land use applications; and

WHEREAS, this Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be exempt, consistent with the findings in Section II of this Ordinance; and

WHEREAS, the Planning Commission, having considered the proposed changes to Title 17 of the OMC contained herein at a public hearing held on July 19, 2021, and receiving public testimony on the item, has determined that the proposed Ordinance is justified and recommends approval thereof; and

WHEREAS, the City Council, having conducted a public hearing on _____, 2021, and receiving public testimony on the item, has determined that the proposed Ordinance is justified and approves thereof; and

WHEREAS, the City Council does therefore determine that this Ordinance will serve and preserve the public health, safety and welfare of the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I:

The recitals stated above are true and correct, incorporated herein, and form the basis for the adoption of this Ordinance.

SECTION II:

- (1) The proposed Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15060(c)(2) and 15060(c)(3), because the Ordinance simply provides procedural noticing and posting requirements. The proposed Ordinance does not cause changes to the residential density established in the General Plan. It does not involve a specific site or development project, and does not otherwise result in a physical change that could cause an impact to the environment. Adoption of the Ordinance is therefore not a "project" as defined in CEQA Guideline 15378.
- (2) The proposed Ordinance is exempt from CEQA per CEQA Guideline 15061(b)(3) because it can be seen with certainty, after review and evaluation of the facts regarding the Ordinance and its application, that there is substantial evidence that adoption of the Ordinance would not have a significant effect on the environment and the common sense exemption applies.
- (3) In the unlikely event adoption of the Ordinance would constitute a project under CEQA, it is categorically exempt from the provisions of CEQA per CEQA Guideline 15321(a) (Class 21, Enforcement Actions by Regulatory Agencies) because said adoption is an action taken by the City as a regulatory agency and involves "enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency."

SECTION III:

Table 17.08.020 of the Orange Municipal Code, "Zoning – General Administrative Procedures – Reviewing Bodies," is hereby amended to read as follows:

Table 17.08.020

Type of Procedure, Permit or Hearing	CDD	DRC	ZA	PC	CC
Zoning Ordinance Amendment	A			A	X
Zone Change	A			A	X
Conditional Use Permit	A	A(1)	X(1)	X(1)	X(1)
Variance	A	A(1)	X(1)	X	
Administrative Adjustment Permit			X		
Temporary Use (Non-Recurring) Permit	A	X(1)	X(1)		

Design Review		A/X(1)		X(1)	
Administrative Design Review	X(1)				
Old Towne Demolition Permit		A		X(1)	X
Site Plan Review—Minor	X				
Site Plan Review—Major	A	A		X	
Tentative Tract Map	A			A	X
General Plan Amendment	A			A	X
Environmental Documentation	A			X(1)	X(1)
Sober Living Permit	X				
Reasonable Accommodation	X(1)				
Tentative Parcel Map	X(1)			X(1)	X(1)
Temporary Use (Recurring) Permit	X				
Alcohol Production Permit			X		

Key:

CDD = Community Development Director

DRC = Design Review Committee

ZA = Zoning Administrator

PC = Planning Commission

CC = City Council

A = Advisory

X = Final project determination

(1) = Restricted to certain applications

GENERAL NOTES:

(a) All items may be finally decided by the City Council upon appeal.

(b) When more than one type of application is filed for a single project, the application requiring the highest level of approval shall dictate the review process for the entire group of applications.

SECTION IV:

Section 17.08.020.C.2 of the Orange Municipal Code, “Zoning – General Administrative Procedures – Reviewing Bodies – Zoning Administrator – Power and Duties,” is hereby amended to add the following:

- e. Decide upon administrative adjustments.

SECTION V:

Section 17.08.020.E.1 of the Orange Municipal Code, “Zoning – General Administrative Procedures – Reviewing Bodies – Community Development Director – Power and Duties,” is hereby amended to add the following:

- f. Decide upon sober living permits
- g. Decide upon reasonable accommodation requests.
- h. Decide upon temporary use (recurring) permits

SECTION VI:

Table 17.08.040 of the Orange Municipal Code, “Zoning – General Administrative Procedures – Notice of Hearings,” is hereby amended to read as follows:

Table 17.08.040

Type of Procedure, Permit or Hearing	Mail to Surrounding Property Owners	Publication and/or Posting	Other
Appeal			(a)
Conditional Use Permit	Yes	Post	
Demolition Permit, Old Towne			(b)
Design Review	Yes	Post	
Development Agreement	Yes	Publish and Post	
Environmental Impact Report	Yes	Publish and Post	(b)
General Plan Amendment (Map)	Yes	Publish and Post	
General Plan Amendment (Text)	No	Publish	

Type of Procedure, Permit or Hearing	Mail to Surrounding Property Owners	Publication and/or Posting	Other
Negative Declaration/ Mitigated Negative Declaration			(b)
Site Plan Review—Major	Yes	Post	
Site Plan Review—Minor	No	Post	
Tentative Tract Map	Yes	Publish and Post	
Variance	Yes	Post	
Zone Change	Yes	Publish and Post	
Zoning Ordinance Amendment	No	Publish	(c)
Administrative Adjustment			(d)
Administrative Design Review	No	Post	
Tentative Parcel Map			(d)
Temporary Use Permit			(d)
Sober Living Permit			(d)
Reasonable Accommodation			(d)
Alcohol Production Permit			(d)
Supportive Housing	Yes	Post	(e)
Transitional Housing	Yes	Post	(e)

NOTES:

- (a) Notification shall occur in same manner as was required for the original permit issuance.
- (b) Notification shall be required in accordance with California Environmental Quality Act Guidelines and the City's Local CEQA Guidelines as determined by the highest entitlement.

- (c) In the event the amendment affects the permitted uses of real property, owners of subject real property and surrounding properties shall also be notified.
- (d) Noticing or notification is not required.
- (e) Only if requesting an alternative parking standard.

SECTION VII:

Section 17.08.040.B.1.a of the Orange Municipal Code, “Zoning – General Administrative Procedures – Notice of Hearings – Noticing Requirements,” is hereby amended to read as follows:

a. Property Owner. Notice of hearing shall be mailed or delivered to the owner of the subject real property or to the owner's authorized agent.

SECTION VIII:

Section 17.08.040.B.3 of the Orange Municipal Code, “Zoning – General Administrative Procedures – Notice of Hearings – Noticing Requirements,” is hereby amended to read as follows:

3. For all hearings requiring publication of notice, notice shall be made by publication in a local newspaper of general circulation in the City at least one time.

SECTION IX:

Section 17.08.040.B.4 of the Orange Municipal Code, “Zoning – General Administrative Procedures – Notice of Hearings – Noticing Requirements,” is hereby amended to read as follows:

4. When notice is provided through either publication or posting, the following shall apply:

SECTION X:

Sections 17.08.040.B.5 and 17.08.040.B.6 of the Orange Municipal Code, “Zoning – General Administrative Procedures – Notice of Hearings – Noticing Requirements – Actions Where Public Hearing Is Not Required” and “- Posting Requirements are hereby added to read as follows:

5. Actions where public hearing is not required. Noticing for application types not covered by State law, shall be posted 10 days prior to final action on the application. These applications include but not limited to Administrative Adjustment, Design Review Committee, Minor Site Plan, and Administrative Design Review.

6. Posting Requirements. As specified in the Community Development Noticing Procedures.

SECTION XI:

Section 17.10.050.C of the Orange Municipal Code, “Zoning – Specific Administrative Procedures – Administrative Adjustments – Zoning Administrator Review,” is hereby amended to read as follows:

C. Zoning Administrator Review. The Zoning Administrator shall have the authority to review administrative adjustment permit applications and may act to approve, conditionally approve, or deny such applications. No public hearing shall be required to consider the issuance of an administrative adjustment permit. Notice shall be in accordance with Table 17.08.040.

SECTION XII:

Section 17.10.050.D.2 of the Orange Municipal Code, “Zoning – Specific Administrative Procedures – Administrative Adjustments – Actions Considered to be Administrative Adjustments – Adjustment of Other Development Standards,” is hereby amended to read as follows:

2. Adjustment of Other Development Standards. Other development standards in all zones may be adjusted a maximum of ten (10) percent. Any proposed deviation in excess of this limit shall be considered a variance and shall be subject to the provisions of Section 17.10.040.

SECTION XIII:

Section 17.10.070.E.4 of the Orange Municipal Code, “Zoning – Specific Administrative Procedures – Design Review – Administrative Design Review – Procedure and Criteria,” is hereby amended to read as follows:

4. Procedure and Criteria. The Community Development Director, pursuant to Section 17.08.020, shall be responsible for administrative design review. Once an application for administrative design review has been deemed complete, the Community Development Director shall consider and approve, deny or refer the project to the Design Review Committee. In making such determination, the Community Development Director shall consider adopted design standards and guidelines where applicable, the general criteria set forth in Section 17.10.070.D, and the findings required in subsections 17.10.070.G.3 and 4. Appeals of decisions by the Community Development Director shall be made in accordance with the City appeal procedures set forth in Section 17.08.050. Notification of administrative design review shall be in accordance with Section 17.08.040 and Community Development Noticing Procedures.

SECTION XIV:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase

thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION XV:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this ____ day of _____, 2021.

Mark A. Murphy, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the ____ day of _____, 2021, and thereafter at the regular meeting of said City Council duly held on the ____ day of _____, 2021 was duly passed and adopted by the following vote, to wit:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange